

**CONTRACT FOR THE LEASE AND OPERATION OF A FIXED BASED OPERATOR
(FBO) CONCESSION AT WARRENTON-FAUQUIER AIRPORT**

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**CONTRACT FOR THE LEASE AND OPERATION OF A FIXED BASED OPERATOR
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This LEASE AND CONSESSION CONTRACT (hereinafter "Contract") entered into as of the _____ day of _____, 2002, by and between the **COUNTY OF FAUQUIER**, a political subdivision of the Commonwealth of Virginia, (hereinafter "County") and **TRACEY CORPORATION**, and, with respect to Sections 1.3, 2.3, 3.1, 3.3 Nos. 11, 12, 14, 15, 20-24, 3.4, 3.5, and 14.3 only, **MIDLAND DEVELOPMENT CORPORATION** and all other entities owned by Ronald L. Gatewood, a private for profit corporation organized and existing under and by virtue of the laws of the State of Virginia (hereinafter "Contractor");

WITNESSETH:

WHEREAS, the County owns and controls the Warrenton-Fauquier Airport (hereinafter "Airport") in the County of Fauquier, Commonwealth of Virginia; and

WHEREAS, the services of a Fixed Base Operator (hereinafter "FBO") to assist the County Airport Manager (hereinafter "Manager") in operating the Airport are essential to the proper accommodation of general and commercial aviation at the Airport; and

WHEREAS, the present Lease and Operating Agreement between the County and the Contractor for basic operational and administrative services is expiring and the Parties wish to enter into this new Contract with renegotiated terms for certain FBO services; and

WHEREAS, the Contractor is presently engaged in business as an FBO and warrants to the County that it is qualified, ready, willing, and able to provide such FBO services at the Airport and meet the obligations hereinafter stated; and

WHEREAS, Contractor will establish and operate certain FBO services at the Airport in accordance with the terms and conditions hereinafter contained;

NOW, THEREFORE, the parties hereto, for and in consideration of the premises and of the terms, conditions, and covenants contained in this Contract, the parties hereby agree as follows:

ARTICLE I. PERIOD OF THE CONTRACT

Section 1.1 TERM

The term of this Contract shall be for a period of five (5) years commencing at 12:00 a.m. on the _____ day of _____, 2002, and continuing through 11:59 p.m. the _____ day of _____ 2007, (hereinafter "Termination Date"), subject to such earlier termination as provided herein.

Section 1.2 EXPIRATION OF TERM

The parties agree that at 11:59 p.m. of the Termination Date this Contract shall expire unless renewed in a manner hereinafter set forth.

Section 1.3 RENEWAL

There shall be one (1) Option for Renewal to extend the term of this Contract for a period not to exceed five (5) years. To exercise the Option for Renewal, Contractor shall provide the County with written notice of intent to renew not later than one hundred twenty (120) days before the Termination Date. Failure to provide notice of intent to renew shall be deemed notice of Contractor's intent to vacate the Leased Premises (as defined in Article II. Leased Premises and Common Areas) and cease FBO services for the Airport on the Termination Date.

Upon receipt of the written application for renewal by Contractor, the Parties shall negotiate, in good faith, the terms and conditions of the renewal contract, provided that the terms and conditions of this Contract shall not carry forward to any renewal unless expressly so provided in the renewal contract. If due diligence in drafting and negotiating the renewal contract require an extension of the period of this Contract, the County and Contractor agree to add one (1) month at a time to the Termination Date until the renewal contract is complete or the Parties decide to terminate this Contract.

If substantial efforts towards drafting and negotiating a renewal contract are not begun by 11:59 p.m. of the Termination Date, this Contract shall expire as hereinbefore provided and no extension shall be given. At termination, all improvements not removed by Contractor pursuant to the terms of this Contract, or such other agreements in effect between the County and Contractor, shall revert to the County and shall be free from any encumbrance at the time of the reversion.

This Contract shall not be renewed if the Leased Premises are required for any purposes mentioned in Virginia Code Section 15.2-1639.

ARTICLE II. LEASED PREMISES AND COMMON AREAS

Section 2.1 LEASED PREMISES

The County hereby demises and leases to Contractor and Contractor hereby accepts and leases from the County, subject to all terms and conditions herein, that a portion of the Airport facilities as identified and shown in **Exhibit A Leased Premises**, and more particularly described as leased spaces, in “as is” condition, except that the County agrees to bring any lease spaces to County, State, and Federal Code if required. The Contractor has ~~and with~~ the right of ingress and egress for both vehicles and aircraft, for the conduct of Contractor's services under this Contract. The leased spaces herein are collectively referred to as the “Leased Premises.” The specific services that Contractor must provide as an FBO are listed in Section 3.3 of this Contract.

Section 2.2 COMMON AREAS

All other portions of the Airport excluding the Leased Premises, which are open to all Airport users and necessary for the use of the Airport as an airport, more particularly described as public areas, herein are collectively referred to as the “Common Areas.” The areas comprising the Common Areas under this Contract shall remain public areas throughout the entire term of this Contract and shall never become part of the Leased Premises.

The County shall provide for the day-to-day management and maintenance of the Common Areas through the Manager. The Manager has full authority from the County to oversee Airport operations, the Contractor's FBO services, and obligations and to enforce the County's rules and regulations on all Airport users and the FBO.

Section 2.3 PREMISES IN GENERAL

It is expressly understood and agreed between the Parties that the Leased Premises does not include the Common Areas. The use of the Common Areas shall be non-exclusive and in common with all other Airport users and County pursuant to the rules, regulations and minimum standards of the Airport currently in place and those adopted in the future, along with the rules and regulations of the Federal Aviation Administration (FAA) as set forth in Section 308 of the

Federal Aviation Act of 1958 or any other applicable section of the Act or FAA rules.

Further, it is expressly understood and agreed between the Parties that the Leased Premises does not include the County owned T-hangars and Condominium T-hangars, nor does it affect the Contractor's rights under existing lease agreements between the County and Contractor, unless this Contract specifically states that it modifies those existing terms and that this Contract shall govern.

The County reserves the right for its Manager, agents, employees or invitees of the County to enter, pass through, inspect, make repairs, and to use the following portion of the Leased Premises at any time: A temporary office for the Manager, the restrooms, and the conference room.

ARTICLE III. RIGHTS AND OBLIGATIONS OF THE CONTRACTOR

Section 3.1 CONCESSION RIGHTS GRANTED

The County grants to the Contractor the non-exclusive right, privilege, and obligation to establish, operate, conduct and perform high quality, well-managed and efficiently run FBO services at the Airport from the Leased Premises in accordance with the terms of this Contract. Specifically, the minimum standards applicable to the FBO under this Contract are described in **Exhibit B Minimum FBO Standards** of this Contract and these standards shall act to further define the Contractor's obligations under this Contract. Provided where a higher standard is required by this Contract, this Contract shall govern. It is further provided that this Contract replaces and governs over previous Airport operations, FBO and management agreements, including any lease terms said agreements may contain Contractor may provide the following commercial support services at the Airport on a non-exclusive basis, as follows:

1. **Repair and Maintenance of Based and Itinerant Aircraft.** Contractor may, at its option, maintain and operate a repair facility and sell aircraft replacement parts. Contractor acknowledges that no right or privilege has been granted which would operate to prevent any person, firm or corporation operating aircraft at the Airport from performing service on its own aircraft, with its own regular employees, including maintenance and repair services.

2. **Aircraft Sales, Rental, Flight Training and Charters.** Contractor may engage in the sales, lease and distribution of aircraft, aircraft parts, accessories and supplies, avionic and engine parts, instruments, accessories and related items. Contractor may offer flight training,

aircraft rental, and charter services and may operate a flight school and ground school. Should Contractor wish to offer any other commercial aeronautical service or engage in any other commercial activity, Contractor must make a written application to the County and provide the County with a business plan. The County reserves the right to reject any business plan or plans for activities that are incomplete, under-funded or under-insured and to prohibit those activities until the plans are approved by the County. Final approval of any new activity shall be in writing and as an amendment to this Contract. County also reserves the right to shut down any activities that deviate in a substantial and material way from the plan approved by the County.

3. Option for Future T-Hangar Development. Contractor may construct two additional T-hangars subject to existing agreements between the County and Contractor with the following provisions to supercede and govern. The construction of both T-hangars must begin within five (5) years of the date of this Contract or within six (6) months of delivery of the County's Notice of Intent to construct the hangars, whichever occurs first. Additionally, the construction of both T-hangars must be complete within six (6) months of the construction begin date. This Option for Future T-Hangar Development shall terminate if either the begin date or the complete date for construction are not adhered to. The County's Notice of Intent shall inform Contractor that the County has decided to construct the T-hangars itself and provide the Contractor with six (6) months to begin construction or permanently lose its Option for Future T-Hangar Development afforded to Contractor under this and any other existing agreements.

The County's obligations contained under this paragraph and the existing agreements are contingent upon:

1. approval and appropriation by the Virginia Department of Aviation of eighty percent (80%) of the funding necessary to complete the site development for the t-hanger site or agreed upon by all Parties that private enterprise will fund site development and seek pre-approved reimbursement for same.
2. approval and appropriation by the Board of Supervisors of the remaining twenty percent (20%) of the funding necessary to complete the site development for the t-hanger site.

Section 3.2 NON-EXCLUSIVE RIGHTS

The right to establish, conduct and operate an FBO service at the Airport and the privilege as granted under this Contract are non-exclusive. The County reserves the right, at its sole discretion and at some time subsequent to the commencement of this Contract, to grant others certain rights and privileges with respect to the Airport which are identical in part or in whole to those granted the Contractor. However, the County does covenant and agree that:

A. It shall enforce applicable minimum performance standards, insurance requirements and prohibited uses for all aeronautical endeavors and activities conducted at the Airport; and

B. Any other operator of aeronautical endeavors or activities will not be permitted to operate on the Airport under rates or terms of condition which are more favorable than those set forth in this Contract; and

C. It will not permit the conduct of any aeronautical endeavor or activity at the Airport except under a written contract

D. The County shall within one year of the execution of this agreement issue a request for proposal for the lease of property to construct and operate an aircraft maintenance hanger, provided, however, this obligation shall be subject to the following:

3. approval and appropriation by the Virginia Department of Aviation of eighty percent (80%) of the funding necessary to complete the site development for the aircraft maintenance hanger site or agreed upon by all Parties that private enterprise will fund site development and seek pre-approved reimbursement for same.
4. approval and appropriation by the Board of Supervisors of the remaining twenty percent (20%) of the funding necessary to complete the site development for the aircraft maintenance hanger site.
5. approval of the lease of the aircraft maintenance hangar site lease by the Board of Supervisors after due notice and hearing.

Section 3.3 OBLIGATIONS

Contractor shall provide the following commercial support services at the Airport as follows at a minimum:

Monday to Thursday 0800 –1730

Friday Sat Sunday 0800- Dusk (Beginning of evening twilight)

The parties shall annually review the hours of operation to determine whether they are sufficient to meet additional airport activity.

1. **Radio Support.** Contractor shall operate a UNICOM radio communications service and its own frequency for FBO business. The County shall maintain the Federal Communications Commission (FCC) licenses.

2. **Aircraft Assistance and Refueling.** Contractor shall provide aircraft ground guidance within the Leased Premises and Common Areas, ramp service, including sale and into-plane delivery of aviation fuels, lubricants and other related aviation products. Contractor shall conform to the requirements set forth in the Fuel Contract as shown in **Exhibit C Fuel Agreement**. When refueling by way of a fuel truck, Contractor shall require that each truck operator shall have a hand held radio and that such truck shall be operated in accordance with safe industry standards and any procedures and controls established by the County. Contractor shall also prepare and maintain an emergency fuel spill response plan and submit the same for approval by the Manager and all fire departments with Airport jurisdiction. The approved plan shall be kept current and a copy of the most current version shall be submitted to the Manager and kept on file at the Airport. Contractor may not dispense, deliver or accept delivery of fuel without a current approved plan on file.

3. **Aircraft Parking and Storage.** Contractor shall provide apron servicing of and assistance to aircraft, including itinerant parking and storage service for both based and itinerant aircraft upon or within Leased Premises and Common Areas.

4. **General Aviation Terminal and Hangar Facilities.** Contractor shall provide customary accommodations for the convenience of Airport users, including, but not limited to, a pilot lounge area, informational services, and direct telephone service connections to the Flight Service Station from the Town of Midland exchange, for which it may charge a reasonable fee.

5. **Assistance to Disabled Aircraft.** Contractor shall arrange for or perform removal service of disabled aircraft from the Air Operations Area for a reasonable fee chargeable to the aircraft owner. As used in this Contract, “Air Operations Area” shall mean those portions of the Airport provided and made available by County for aircraft and related operations, and shall include the Common Areas and areas directly associated therewith, which are not part of the

Leased Premises.

6. **General Service Terms.** Contractor shall furnish services under this Contract on a fair, reasonable and non-discriminatory basis to all users of the Airport. Contractor shall furnish good, prompt and efficient service adequate to meet all reasonable demands for its services at the Airport. Contractor shall charge fair, reasonable, and non-discriminatory prices for each unit of sale or service; however, Contractor may be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

7. **Supervisor Required.** Contractor shall select and hire, at its sole expense, a full-time supervisor of its FBO operations at the Airport. The supervisor shall be qualified and experienced, and vested with full power and authority to act in the name of Contractor with respect to the method, manner and conduct of the operation of the FBO services to be provided under this Contract. The supervisor shall be available at the Airport during regular business hours. During the supervisor's absence a duly authorized representative shall be available at the Airport.

8. **Employees Required.** Contractor shall provide, at its sole expense, a sufficient number of employees to provide effectively and efficiently the services required or authorized in this Contract.

9. **Employee Conduct.** Contractor shall control the conduct, demeanor and appearance of its employees, who shall be adequately trained by Contractor and who shall possess such technical qualifications and hold such certificates of qualification as may be required in carrying out assigned duties. It shall be the responsibility of Contractor to maintain close supervision over its employees to assure a high standard of service to customers of Contractor.

10. **Obligation to Pay Taxes and Fees.** Contractor shall meet all expenses and payments in connection with the use of the Leased Premises and the rights and privileges herein granted, including taxes, permit fees, license fees and assessments lawfully levied or assessed upon the Leased Premises. Contractor may, however, at its sole expense and costs, contest any fee or assessment.

11. **Obligation to Follow Applicable Rules and Regulations.** Contractor shall comply with all federal, state and local laws, requests for assurances, rules and regulations, including those rules and regulations promulgated by County, which may apply, now or in the future, to the conduct of any business or activity in the County or at the Airport that is either granted or

required under this Contract. Contractor shall keep in effect all necessary and/or required licenses or permits and post them in a prominent place. Contractor shall follow and enforce any present County adopted Airport Rules and Regulations and shall follow and enforce any new or modified Airport Rules and Regulations during the term of this Contract.

12. General Contract Terms and Contractor's Affirmative Duty. Contractor shall not commit waste or abuse the Leased Premises and shall keep said area in good condition and working order and shall surrender same upon the termination of this Contract less normal wear and tear. Contractor shall use its position as FBO to prevent others from causing damage, destruction or abuse above normal wear and use to the Common Areas. Contractor shall be liable for such damage caused to the Common Areas by itself or its employees. Contractor shall report and attempt to prevent damage by third parties in the first place. The Contractor shall take appropriate and timely action to mitigate damage to or safety hazard in the Common Areas. Appropriate action shall be determined by that of a reasonable and prudent person, but at a minimum shall include notifying the County, law enforcement and/or fire and emergency services. In the case of an emergency, such as a plane crash or fuel spill, Contractor must take appropriate action and shall take affirmative and active steps to provide assistance to those in need, to mitigate damage and to act on any emergency plan, such as the emergency fuel spill response plan. Contractor's obligation to take appropriate action with regard to the Common Areas and emergency situations shall apply equally to any corporate officer, director or employee of Contractor.

13. Vendor Requirements. It is expressly understood and agreed that in providing the required and authorized services pursuant to this Contract, Contractor shall have the right to choose, in its sole discretion, its vendors and suppliers, but Contractor agrees to comply with the MBE/WBE and Disadvantaged Business Plans adopted by the County and those requirements as set forth in Articles XI and XIV.

14. Subleasing. Contractor shall not sublet any portion of the Airport or the Leased Premises, with the sole exception of the existing sublease to SkyWorld Aviation, Inc.. The sublease to SkyWorld Aviation, Inc. shall be expressly subject to the terms and conditions of this Contract and shall not extend beyond the period of this Contract. Where the sublease between SkyWorld and Contractor is in conflict with this Contract, this Contract shall govern. With regard to all other subleases, Contractor hereby assigns to County all rights under any and all

existing leases for space in County owned t-hangars between Contractor and third parties, a copy of which leases are attached hereto as Exhibit E. The County shall directly collect all rents from such leases. Any obligations to third parties or costs born by Contractor under any such lease shall remain fully and solely the obligations of Contractor and shall not transfer to the County under this Contract. Notwithstanding any other provision of this paragraph nothing within this paragraph shall affect those certain aircraft hangar space leases between Midland Development Corporation and third parties for aircraft hangar space in the hangars built by Midland Development Corporation under separate lease agreements with the County.

15. **Tie-down Service and Rental.** Contractor shall not rent or sublet tie-down equipment or service. The County will solely provide all tie-down equipment and will rent all such service and equipment directly to users of the Airport. The County will also directly collect all rents from tie-down rentals. The County will provide five (5) tie-down spaces on the public aircraft parking ramp in front of the current FBO for parking Contractor owned or operated aircraft. Contractor shall maintain these tie-down spaces and equipment and provide the FBO services provided for in this Contract to those members of the public using any of the County provided tie-downs.

16. **Signs.** During the term of this Contract, Contractor shall have the right, at its expense, to place in or on the Leased Premises a sign or signs identifying Contractor. Said sign or signs shall be of a size, shape and design, and at a location or locations, approved by the County and shall be in conformance with all applicable ordinances of the County. If the sign is in conformance with County ordinances, the County's general approval shall not be withheld unreasonably. Notwithstanding any other provision of this Contract, said sign(s) shall remain the property of Contractor. Contractor shall remove, at its expense, all lettering, signs and placards so erected on the Leased Premises at the expiration of the term of this Contract. County shall erect, at its expense, an appropriate sign identifying the Airport property as a County facility.

17. **Fees.** Contractor shall be an agent, with respect to this part 17 on fees only, for the County and agrees to monitor, record and collect with its own personnel, all Airport landing and use fees imposed, other than hangar rents and tiedown fees, either now or in the future, by the County and/or the state. In any other capacity than fee collector, Contractor shall be an independent contractor to County and the terms under Article X of this Contract shall govern.

18. **Use of Airport Facilities.** Contractor shall be entitled, in common with others so authorized, to use of the Common Areas and those areas that are of a public nature which are now or may hereafter be connected with or appurtenant to the Airport, including the use of landing areas, runways, taxiways, navigational aids, terminal facilities and aircraft parking areas as designated by the County.

19. **Aerial Approaches.** The Contractor shall follow the aerial approaches mandated by the County. The County reserves the right, by any means necessary, to protect the aerial approaches of the Airport against obstruction, to prevent hazard to aircraft or the community and secure the usefulness and operability of the Airport.

20. **Airport Security.** The Contractor shall comply with and incorporate all applicable local, state and national security mandates or plans relative to airports as part of its obligations under this Contract.

21. **Runway Safety.** The Contractor shall, at its sole expense and at the request of the Manager, but no less than twice a day, once in the morning and once in the evening, check the runway for foreign objects or debris and remove the same and verify the working order of the runway lights and replace any burnt bulbs.

22. **Maintenance of Leased Premises.** The Contractor shall, notwithstanding any other provision in this Contract, maintain all areas of the Airport leased from the County. Maintenance shall include, but is not limited to, all repairs not of a capital nature. For purposes of this section “capital nature” shall include but not be limited to major structural, hangar doors/locks, plumbing systems, security system, ground communications equipment, HVAC, OSHA required structure /safety systems, HVAC and electrical repairs. The County reserves the right to have the Manager to mandate that Contractor make certain repairs in order to ensure that Contractor does not operate in unsafe or substandard conditions.

23. **Reporting Requirement.** The Contractor shall report, in writing, any physical or safety issues for buildings, any suspicious activities or other maintenance, security or operational hazards to the Manager in a timely manner.

24. **Additional Obligations.** The County and the Contractor shall mutually agree to additional obligations not specifically identified in this Contract. The terms and compensation for the additional obligations shall be agreed upon prior to such obligations taking effect and must be in writing as an amendment to this Contract.

Section 3.4 PROHIBITED USES

Contractor shall not use the Leased Premises or the Common Areas, nor permit the same to be used by anyone, including but not limited to, its customers, tenants, invitees, contractors, service personnel or employees, for storage, transportation, disposal, discharge, or handling of any hazardous substances, except for the storage, transportation, disposal, discharge, or handling of such substances reasonably necessary for the conduct of FBO services outlined herein. Under no circumstances shall any use be made of, or conduct occur on, the Leased Premises or Common Areas, which use would cause any portion of the Airport to violate any state, county or environmental laws. Should Contractor cause such a violation, either directly or indirectly, Contractor shall be responsible for any fines, penalties, remediation or cleanup costs.

Further, Contractor shall not abuse, misuse or cause damage beyond normal wear and use to the Common Areas. Contractor shall be financially liable for such abuse or damage to the Common Areas even though the County shall be responsible for general maintenance of the Common Areas.

Section 3.5 ASSIGNMENT

Contractor covenants that it shall not assign, transfer, convey, sell, mortgage, pledge, encumber or sublet any portion of the Leased Premises or any part thereof, or any rights of Contractor hereunder or allow the use of the Leased Premises by any other person without the prior written approval of the County, which consent may be withheld at the sole discretion of the County.

ARTICLE IV. RENTAL AND FEE PAYMENTS

Section 4.1 RENT

In consideration of the rights and privileges granted by this Contract, the Contractor agrees to pay the County during the term of this Contract a rental of twelve thousand dollars (\$12,000.00) per annum for the Leased Premises. This amount represents a square footage charge of ten dollars (\$10.00) per square foot per month on the Leased Premises. The annual rental amount is expressly subject to yearly review by the County and adjustments may be made at the County's sole discretion to reflect inflationary and/or economic increases in the value of this Contract. There shall be no decrease in the annual rental amount. Increases in the annual rent shall be the greater of (i) the Consumer Price Index for All Urban Consumers (CPI-U) for

Transportation Expenditures seasonally adjusted compound annual rate for the three months ending in June of the current year or (ii) the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Baltimore, DC-MD-VA-WV local area percent change in June of the current year from the last year compounded to an annual rate, or (iii) the Chained Consumer Price Index for All Urban Consumers (C-CPI-U) for Private Transportation Expenditures initial values for the most recent period compounded to an annual rate, all as released by the Department of Labor Bureau of Labor Statistics.

The rental payments described in this section herein are collectively referred to as the "Rent Payments."

Section 4.2 FEES

A sum of two cents (\$0.02) per gallon on all aviation fuel sold by Contractor at retail, excepting fuel sold under federal (including military), state and municipal government contracts and fuel used by Contractor in the operation of its business shall be paid by Contractor as a fuel flowage fee. Notwithstanding anything contained in the forgoing sentence to the contrary upon the completion of the runway extension project Contractor shall pay the fuel flowage fee on all fuel pumped including but not limited to fuel pumped in the course of Contractor's business. The per gallon fuel flowage fee is expressly subject to annual review by the County and adjustments may be made at the County's sole discretion. Further terms regarding fuel sales are set out in Exhibit C Fuel Agreement.

Contractor shall collect any landing fees, airport use fees, or any other associated charge that the County requires or will require as payment for use of the Airport facilities, according to fee schedules established by the County except T-hangar and tiedown rental fees. Fees so collected shall be reported and paid monthly to the County.

The fuel flowage fees and usage fees described in this section herein are collectively referred to as the "Fee Payments." Fee Payments shall be accompanied by a report of Contractor's retail fuel sales, other non-retail fuel sales and Contractor's own fuel usage along with an accounting of fees collected.

Section 4.3 PAYMENTS

The Rent Payments specified above shall be paid monthly in advance in the sum of one thousand dollars (\$1,000), on or before the first day of each month during the term of this

Contract. The first monthly payment of rent, shall be due on the lease commencement date.

Notwithstanding the provisions contained in Section 4.1 Rent, it is understood and agreed that the Rent Payments and business hours specified may be reduced during a planned one-time six (6) month period while the runway is being extended causing Airport closure or limited operation. The percentage and period of reduction is specified in Exhibit D Percentage Reduction In Rent.

The Fee Payments specified above and in Exhibit C Fuel Agreement shall be paid monthly through the term of this Contract and until all financial obligations under this Contract have been paid.

Section 4.4 LATE FEES

A late fee of twelve percent (12%) per annum or one percent (1%) per month shall be added to all Rent or Fee Payments due according to the schedule required above and which are rendered more than ten (10) days past the date due as set forth in this article.

Section 4.5 RECORDS

The Contractor shall provide and maintain accurate records of retail fuel sales and business conducted at the Airport during the term of this Contract and continuing for another five (5) years after the termination of this Contract. Such records shall be maintained according to Generally Accepted Accounting Principles (GAAP). The County or its duly authorized representative shall have, during business hours the right to inspect the fuel records, fuel accounting books and fuel receipts of the Contractor, and to verify the Contractor's fuel records during the term of this Contract and for five (5) years after its termination.

Contractor shall supply County with, at the end of each quarter, a quarterly fuel sales statement. In addition to the fuels statement Contractor shall supply the County with an annual statement detailing all gross business receipts and shall be certified by an officer of the Contractor as to its accuracy and reliability.

To the extent permitted by law the County shall treat all documents provided by the Contractor under this section as confidential and shall not release the documents to the public unless required by law.

Section 4.6 RIGHT OF AUDIT

The County reserves the right to audit Contractor's Fee Payments reports and other

statements, books and records, including examination of the general ledger and all other supporting material. The purpose of such audits is to verify the financial information reported on said reports and statements and on any required financial statements under Exhibit B Minimum FBO Standards. If the County finds that the Contractor's statement is in error, whether it has overstated or understated the financial information, by 10% or more, the Contractor shall reimburse the County for the expense of the audit. Any additional payments due as a result of the audit shall be assessed a late fee as provided in Section 4.4. Any overpayments by Contractor shall be credited against further payments due to the County.

In the event that any dispute may arise as to the results of the audit, one half of the amount claimed by the County shall be paid forthwith and the dispute shall be submitted to a certified public accountant, agreeable to both Parties, who shall determine the rights of the Parties hereunder in conformity with GAAP. The unsuccessful party shall pay the fees due said accountant for such service, or in the event the determination is partially in favor of each party, the fee shall be borne equally by both Parties.

ARTICLE V. COUNTY OBLIGATIONS SUBJECT TO APPROPRIATIONS

Notwithstanding any other provisions of this Contract, the County shall be obligated hereunder for any cost payment or fee contained herein only as, and to the extent that, the governing body of the County shall appropriate monies for that purpose. Such failure of the governing body to so appropriate monies shall not constitute a default hereunder or entitle Contractor to any remedies.

ARTICLE VI. UTILITIES

The Contractor shall have the right to use the utility service facilities currently located within the Leased Premises during the term of this Contract. Additionally, the Contractor agrees to pay the cost of, and maintain all of the utilities for the Leased Premises. In the event Contractor fails to pay any utility bills when due, the County may, in its sole discretion, pay the same and may collect from Contractor such amounts paid, including fees and penalties, plus additional interest at the rate of one percent (1%) per month.

ARTICLE VII. INSURANCE

Prior to the time Contractor is entitled to commence any part of the project, work or services under this Contract, the Contractor shall procure, pay for and maintain at its sole

expense, at least the minimum insurance coverages and limits as provided for in this Article. Said insurance shall be evidenced by delivery to the County (i) certificates of insurance, executed by a financially stable insurance carrier acceptable to the County and licensed by or permitted to write insurance by the Virginia Bureau of Insurance, listing coverages and limits, expiration dates and terms of policies and all endorsements whether or not required by the County, and listing all carriers issuing or reinsuring said policies; and (ii) a certified copy of each policy, including all endorsements. The insurance requirements shall remain in effect throughout the term of this Contract. It is expressly understood that the insurance coverage provided by the Contractor is for the Leased Premises and that the County will maintain insurance coverage for the Common Areas and the remaining public use portions of the Airport.

Throughout the term of this Contract, Contractor shall meet or exceed the following insurance requirements:

1. **General Liability to include.** Coverage shall be written on an occurrence basis. The limits of liability for sections A and B below shall not be less than one million dollars (1,000,000.00) combined single limit each occurrence and one million dollars (1,000,000.00) annual aggregate. The General Liability policy shall include:

- A. Comprehensive general liability including contractual, independent contractor, incidental medical malpractice for bodily injury, property damage, advertising injury, personal injury and fire legal liability of not less than one hundred thousand dollars (\$100,000.00) per occurrence; and
- B. Completed operations and products liability coverage for all products sold including fuel, aircraft, aircraft parts, aircraft maintenance and repair and non-aviation products sold; and
- C. A premises medical payment coverage with limits not less than five thousand dollars (\$5,000.00); and
- D. Hangerkeepers liability on maintenance hanger of not less than two hundred and fifty thousand dollars (\$250,000.00) for one aircraft and one million dollars (\$1,000,000.00) per each occurrence or disaster. The limits of this coverage shall be increased should the value of a single aircraft or all aircraft exceed the above amounts. In no case shall the amount of insurance be less than the actual values of the aircraft in the care or custody of the Contractor.

2. **Workers' Compensation** maintained to current statutory limits as required by law.
3. **Employers Liability** insurance of not less than one hundred thousand dollars (\$100,000.00) bodily injury by accident, one hundred thousand dollars (\$100,000.00) bodily injury by disease, each employee and five hundred thousand dollars (\$500,000.00) bodily injury by disease, policy limit.
4. **Comprehensive Automobile Liability** covering all vehicles used under this contract for owned, hired, and non-owned coverage with minimum limits of one million dollars (\$1,000,000.00) each for bodily injury including death, per occurrence, and property damage of not less than five hundred thousand dollars (\$500,000.00) per occurrence. Coverage shall be on an "occurrence" basis, but combined single limit of not less than one million dollars (\$1,000,000.00) for each occurrence will be acceptable unless otherwise stated.
5. **Uninsured and Under Insured Motorist** coverage to the same limits as Comprehensive Automobile Liability insurance.
6. **Mobile Equipment Floater** insurance coverage on an "all risks" basis covering all Contractor owned or leased, computer and communications equipment under the care or custody of the Contractor. The electrical surge exclusions are to be removed.
7. **Property Insurance** coverage on an "all risks" basis covering all County owned contents in the care or custody of the provider.
8. **Aircraft Liability** coverage for rental of aircraft and instruction of students with limits of not less than one million dollars (\$1,000,000.00) per occurrence.
9. **Refueling Liability.**
10. **Employee Dishonesty** coverage in the amount of twenty-five thousand dollars (\$25,000.00) against theft or conversion of goods, money and securities.
11. **Renters Insurance.**
12. Each insurance policy shall include the following conditions by endorsement to the policy:
 - A. Each policy shall require, sixty days (60) prior to its expiration, cancellation, non-renewal or any material change in coverage or limits, a notice thereof shall be sent by the insurer to the County at its address of record. The Contractor shall also notify the County in a like manner within twenty-four (24)

hours after receipt of any notices of expiration, cancellation, non-renewal or material change in coverage received by the Contractor from its insurer. Nothing contained herein shall absolve the Contractor of this requirement to provide notice.

B. Companies issuing the insurance shall have no claims against the County for payment of premiums or assessments or deductibles, which are the sole responsibility, and risk of the Contractor.

C. For the purposes of 11. B. above, the term County shall include Fauquier County, the Board of Supervisors, Constitutional Officers, employees, agents and representatives of Fauquier County.

D. Fauquier County will be named as additional insured and shall appear as owners of the Airport and equipment on the following policies: (i) comprehensive general liability Airport policy, (ii) comprehensive automobile liability, (iii) aircraft liability policy, (iv) pollution liability insurance, and (v) employee dishonesty coverage. Fauquier County will be named as loss payees on the following policies: (i) mobile equipment floater, and (ii) property insurance. All tenants and subcontractors shall be required by the Contractor to comply with the requirements of this Article. All requirements of this Article shall be included in any subcontract agreements.

ARTICLE VIII. INDEMNIFICATION

Contractor shall indemnify, keep and hold harmless County from and against any and all claims, demands, suits, judgements, costs and expenses asserted by any person or persons, including officers, agents or employees of the County or the Contractor to the extent not covered by insurance carried in favor of the County. Losses or damages shall include, but are not limited to, death or injury to persons, loss or damage to property resulting from the Contractor's negligence, or anything done or omitted by Contractor or any person or persons on behalf of the Contractor under the direction of its officers, agents or employees under this Contract or in relation to the Airport. To the extent that such claims, demands, suits, judgments, costs and expenses may be directly attributed to the acts or omissions of the County or its agents or employees, Contractor shall not be required to indemnify County.

ARTICLE IX. RIGHTS AND REMEDIES

In addition to any other rights or remedies which the County may have at law or in equity, upon the occurrence of each default, then so long as such default continues, the County may exercise any one or more of the following rights:

1. The County shall have the right to terminate this Contract by giving at least thirty (30) days written notice to the Contractor specifying the effective date of such termination, provided that Contractor's default or defaults shall not have been cured prior to the effective date of such termination set forth in said notice.

2. The County shall, to the full extent permitted by law, have the right to maintain any and all actions at law, suits in equity, or other appropriate proceedings to enforce the curing or remedying of such default.

3. In the event that performance of any of the Contractor's or County's respective obligations under this Contract other than Contractor's obligations with respect to the payment of rent, is prevented, interrupted or delayed by causes beyond its control, excepting its financial condition, including, but not limited to, strike, riot, storm, flood, act of God, or of the public enemy, act of the government, fire, epidemic, quarantine restrictions, freight embargo, unusually severe weather, or delay of a contractor or subcontractor due to such causes, and not caused by any act or failure to act by the party thereby delayed in such performance, the date for the performance of such obligation shall become extended for a period of time equal to the number of days the performance of such obligation is so prevented, interrupted or delayed. In such case, neither the County or the Contractor shall be liable for any cost, loss, damage, injury or liability caused, suffered or incurred by either party or by any other legal entity as the result of any such delay in performance of such obligation.

4. The respective rights and remedies of the County and the Contractor, whether provided by this lease or by law, shall be cumulative. The exercise by either Party of any one or more of such rights or remedies shall not preclude the exercise of any other right or remedy at the same or at different times for the same default or for the same failure with respect to any of the obligations under this lease, or of any of its remedies for any other default or failure by the other Party.

5. In the event that either Party to this Contract shall not take any action with respect to any failure of the other Party to observe or perform any of the terms or provisions of this

Contract required to be observed or performed by such other Party, such non-action shall not be construed as a waiver of such failure of default with respect to the term or provision of this Contract not being observed or performed. It is understood and agreed that any delay by either Party to this Contract in exercising or asserting any of its rights or remedies hereunder or in instituting any actions or proceedings to assert or enforce any such rights or remedies shall not operate as a waiver of any such rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

ARTICLE X. CONTRACTOR AS INDEPENDENT CONTRACTOR

In conducting its business hereunder this Contract, the Contractor acts as an independent contractor of the County and not as an agent. As an independent contractor the selection, retention, assignment, direction and payment of the Contractor's employees shall be the sole responsibility of the Contractor, and the County shall not attempt to exercise any control over the daily performance of duties by the Contractor's employees.

ARTICLE XI. NON-DISCRIMINATION

Notwithstanding any other or inconsistent provision of this Contract, during the performance of this Contract, Contractor, for itself, its heirs, personal representatives, successor in interest and assigns, as part of the consideration for this Contract, does hereby covenant and agree, as a covenant running with the land, that:

1. No person on the grounds of race, color, religion, sex, age or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in, the use of the Airport.

2. In the construction of any improvements on, over or under the Airport, and the furnishing of services therein or thereon, no person on the grounds of race, color, religion, sex, age or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

3. Contractor shall use the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964

(49 CFR Part 21), and as said regulations may be amended.

4. In the event of breach of any of the above non-discrimination covenants, County shall have the right to terminate this Contract and to re-enter and repossess the Leased Premises and hold the same as if said Contract had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 have been followed and completed, including expiration of appeal rights.

ARTICLE XII. REQUIREMENTS OF THE UNITED STATES AND COMMONWEALTH OF VIRGINIA

1. This Contract shall be subject and subordinate to the provisions of any existing or future agreement between County and the United States, or any agency thereof, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or operation of the Airport; provided, however, that County shall, to the extent permitted by law, use its best efforts to cause any such agreements to include provisions protecting and preserving the rights of Contractor in and to the Leased Premises, and to compensation by the United States for the taking thereof, interference therewith and damage thereto, caused by such agreement, or by action of County or the United States pursuant thereto.

2. This Contract shall be subject to and subordinate to the terms and conditions of any outstanding or future Grant Agreement between the County and the Commonwealth of Virginia and any agency, department or authority thereof and shall be subordinate as well to any action taken thereunder by virtue of exercisable rights granted thereunder to the Commonwealth and any agency or authority thereof.

ARTICLE XIII. DEFAULT AND TERMINATION

SECTION 13.1 TERMINATION BY CONTRACTOR

This Contract shall be subject to termination by Contractor in the event of any one or more of the following events:

1. The abandonment of the Airport as an airport or airfield.
2. The default by County in the performance of any of the terms, covenants or conditions of this Contract, and the failure of County to remedy, or undertake to remedy, to

Contractor's satisfaction, such default for a period of thirty (30) days after receipt of written notice from Contractor to remedy the same.

3. Damage to or destruction of all or a material part of the Leased Premises or Airport facilities necessary to the operation of Contractor's FBO services.

4. The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the airport, or any substantial part or parts thereof, in such a manner as to restrict substantially Contractor from conducting business operations for a period in excess of sixty (60) days.

SECTION 13.2 TERMINATION BY COUNTY

This Contract shall be subject to termination by County in the event of any one or more of the following events:

1. If Contractor fails to fulfill any obligation or duty or meet any standard imposed by the terms of this Contract, it shall be in default. If Contractor fails to cure the default within thirty (30) days of written notice from the County that Contractor is in default, the County may, at its sole discretion, terminate this Contract. Upon termination pursuant to the provisions of this sub-paragraph, Contractor shall not be entitled to any compensation of whatever kind unless expressly agreed to in writing by the County in its sole discretion.

2. If Contractor files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Contractor and such receivership is not vacated within thirty (30) days, after the appointment of such receiver.

3. If the interest of Contractor in the demised premises is sold under execution or other legal process.

4. If Contractor supplies false or misleading information or fails to make full disclosure in documents or supporting documents submitted as required under this Contract, if Contractor's credit report contains negative information, if Contractor does not have sufficient operating capital to perform its obligations herein and cannot obtain sufficient insurances or financial sureties to protect the interests of the County, or if Contractor, its principals, directors or officers are convicted of any crime.

SECTION 13.3 TERMINATION FOR CONVENIENCE

Either party shall have the right, at its sole discretion, to terminate this Contract at any time and for any reason provided, however, the party so terminating shall give the other party one hundred eighty (180) days written notice of termination. Upon expiration of the 6 months notice period, this Contract and Option for Renewal shall automatically terminate and both Parties shall be released from any and all liability and future obligations hereunder. Any Rent Payments, Fee Payments or utility costs previously accrued and due shall not be waived and will continue to incur late fees, as provided in this Contract, until paid. Termination for Convenience by the Contractor does not limit any of the County's remedies to collect such past due amounts.

SECTION 13.4 EXERCISE

Exercise of the rights of termination set forth in paragraphs 13.1 and 13.2 above, shall be by notice to the other Party within thirty (30) days following the event giving rise to the termination.

SECTION 13.5 REMOVAL OF PROPERTY

Upon termination of this Contract for any reason, Contractor shall quit and surrender the Leased Premises to the County in good order and condition and, at its sole expense, shall remove from the Airport all signs, trade fixtures, furnishings, personal property, equipment and materials which Contractor owns and was permitted to install or maintain under the rights granted herein. If Contractor shall fail to do so within thirty (30) days, then County may effect such removal or restoration at Contractor's expense, and Contractor agrees to pay County such expense promptly upon receipt of a proper invoice therefor.

SECTION 13.6 CAUSES OF BREACH; WAIVER

1. Neither Party shall be held to be in breach of this Contract because of any failure to perform any of its obligations hereunder if said failure is due to any cause for which it is not responsible and over which it has no control; provided, however, that the foregoing provision shall not apply to failures by Contractor to pay fees, rents or other charges to County.

2. The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken

to constitute a waiver of any such subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

SECTION 13.7 EMINENT DOMAIN

In the event any part or all of the Leased Premises shall be taken by any exercise of eminent domain or by any other authority of law after the execution of this Contract and before the expiration of the term hereof and any renewals, Contractor shall retain any rights it might have to recover from the condemner the damages, including moving expenses, to any and all real and personal property Contractor has installed, placed, or stored upon the Leased Premises for its FBO services, but the County shall retain the right to recover the value of the leasehold apart from the additions or improvements made by Contractor. In the event that the entire Leased Premises are so taken, this Contract shall terminate upon the effective date of taking. In the event that only part of the Leased Premises is taken, either Party may terminate this Contract upon written notice to the other, with this Contract terminating on the effective date of the taking; if neither Party exercises this option to terminate, the County shall restore the remaining Leased Premises.

SECTION 13.8 LACK OF AUTHORITY

In the event that by operation of law, the County shall cease to exist, or the powers of the County shall be so construed as not to permit the County to continue to use all or any part of the Airport for the purpose for which they shall have been used, then in that event, at the option of the County, this Contract and all obligations and liability of the County of whatever kind hereunder shall terminate with respect to the Airport or part thereof.

ARTICLE XIV. MISCELLANEOUS PROVISIONS

SECTION 14.1 OPERATION OF PREMISES

Contractor agrees to operate the Leased Premises for the use and benefit of the public. Contractor agrees to furnish good, prompt, and efficient services adequate to meet all the demands for its service at the Airport within the obligations set forth in this Contract. Further, Contractor agrees to furnish said service in such a way as to meet the standards set forth in Exhibit B Minimum FBO Standards.

SECTION 14.2 AFFIRMATIVE ACTION PLAN

Contractor assures that it will undertake an affirmative action program, as required by federal law as to ensure that no person shall, on the grounds of race, creed, color, age, national origin, or sex, be excluded from participating in any employment, contracting, or leasing activities covered in 14 C.F.R. Part 152, Subpart E. Contractor assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Contractor assures that it will require that its covered organizations provide assurance to the County that they similarly will undertake affirmative action programs and that they will require assurance from their sub-organization, as required by 14 CFR Part 152, Subpart E, to the same effect.

Contractor agrees to comply with any affirmative action plan or steps for equal employment opportunity required by 14 CFR, Part 152, Subpart E, as part of the affirmative action program or by any federal, state, or local agency or court, including those resulting from a conciliation agreement, a consent decree, court order, or similar mechanism. Contractor agrees that state or local affirmative action plan will be used in lieu of any affirmative action plan or steps required by 14 CFR, Part 152, Subpart E, only when they fully meet the standards set forth in 14 CFR 152.409. Contractor agrees to obtain a similar assurance from its covered organizations, and to cause them to require assurance of their covered sub-organizations, as required by 14 CFR, Part 152, Subpart E.

SECTION 14.3 CONTROL AND DEVELOPMENT OF THE AIRPORT

County reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Contractor, and without interference or hindrance.

County reserves the right, but shall not be obligated to Contractor, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Contractor in this regard. Contractor may make any capital improvements to the Leased Premises subject to the written approval of the County. Contractor shall be responsible for obtaining and funding any building, zoning and other government permits and applications required for such capital improvements. Any and all improvements revert to the County upon the expiration of this Contract without any reimbursement due to Contractor payable by the County for said improvements.

The Board of Supervisors of Fauquier County retains ultimate responsibility for the ownership and operation of the Airport. The Board has, by this Contract, leased the fixed base operations to Contractor and the Board of Supervisors shall retain an oversight function that is to be carried out by its Airport Committee, the County Administrator and the Manager. Each is charged with considering and making recommendations to the Board of Supervisors on all proposed capital improvements, coordinating any and all proposed actions with the FAA and/or the Virginia Department of Aviation (VDoA) as appropriate, and assuring that the Airport is operated in accordance with the conditions of this Contract, the Federal Grant Agreement, the Master Plan, and other pertinent laws, rules, regulations, and development plans.

During the time of war or national emergency County shall have the right to lease the landing area or any part thereof to the United States Government for military or naval use, and if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the contract to the Government, shall be suspended.

SECTION 14.4 ENTIRE AGREEMENT

This Contract constitutes the entire understanding between the Parties, and as of its effective date supersedes all prior or independent agreements between the Parties covering the subject matter hereof. Any change or modification hereof must be in writing signed by both Parties.

SECTION 14.5 SEVERABILITY

If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Contract shall not be void, but the remaining provisions shall constitute in effect as nearly as possible in accordance with the original intent of the Parties.

SECTION 14.6 NOTICE

Any notice given by one Party to the other in connection with this Contract shall be in writing and shall be sent by registered mail, return receipt requested, with postage and registration fees prepaid:

- a. If to County: **Fauquier County Airport Manager
40 Culpeper Street**

Warrenton, VA 20186

b. If to Contractor: **Ronald F. Gatewood**
President, Tracey Corporation
P. O. Box 68
Midland, VA 22728

Notices shall be deemed to have been received on the date of receipt as shown on the return receipt.

SECTION 14.7 HEADINGS

The headings used in this Contract are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Contract.

SECTION 14.8 GOVERNING LAWS

This Contract is to be construed in accordance with the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the day and year first above written.

**BOARD OF SUPERVISORS OF
FAUQUIER COUNTY**

by: _____

TRACEY CORPORATION

by: _____
President

MIDLAND DEVELOPMENT CORPORATION

by: _____
President, hereby acknowledges Sections 1.3, 2.3,
3.1, 3.3 Nos. 11, 12, 14, 15, 20-24, 3.4, 3.5, and
14.3, and is bound thereby.

EXHIBIT A LEASED PREMISES

SEE ATTACHED PLAT

EXHIBIT B MINIMUM FBO STANDARDS

The Fixed Base Operator (FBO) must provide commercial support services for general aviation aircraft up to 12,500 pounds gross weight and, at a minimum, must agree to provide the following assurances, personnel, services and operating equipment:

1. **Basic Financial and Business Requirements:** The FBO shall furnish the following supporting documents upon request by the County as evidence of organizational and financial capability to provide the obligations of this Contract.

A. **Business Personnel.** . The Contractor shall provide a list of key personnel along with their resumes, duties and responsibilities. The County reserves the right to request further information should it feel that pertinent information is missing.

B. **Credit Report.** A current credit report for both the FBO and its principals, owners, or parent entities covering all business activities within the past ten years.

C. **Letter of Credit.** A current letter of credit in the amount of \$25,000.00 (twenty-five thousand dollars) in a form acceptable to the County and conditioned on the faithful performance of this Contract. This letter of credit shall remain in effect for the duration of the term of this Contract.

D. **Release.** A written and signed authorization for the FAA, County and state to release information regarding the FBO and its business operations.

2. **Basic Personnel Requirements.** The FBO must, at a minimum, provide the following personnel:

A. At least one properly trained and qualified FAA licensed airframe and power plant mechanic to perform maintenance services on piston general aviation aircraft up to 12,500 pounds gross weight.

B. A minimum of one full trained and qualified ground handling and customer service agent on duty during the hours of operation.

C. A minimum of one fully trained and qualified fuel service employee on duty during hours of operation.

D. Availability of at least one qualified employee having reasonably

thorough knowledge of the aircraft parts and supply business.

3. **Basic Aeronautical Services.** The FBO must, at a minimum, provide the following services:

A. **Fuel and Petroleum Sales.** The FBO shall sell and be able to provide into-plane delivery of fuel and petroleum products for piston aircraft up to 12,500 pounds gross weight.

B. **Ground Handling and Customer Services.** The FBO shall be capable of providing the following services: aircraft lead-in/lead-out services; aircraft parking guidance; aircraft tie down and hanger storage; shock management and monitoring engine start-up safety; aircraft repositioning; on-airport transportation of passengers; crew and baggage; assisting with arrangements for ground transportation and accommodations; landing fee collection; informational services to passengers and crews; and monitoring of UNICOM frequency.

C. **Aircraft and Power plants maintenance.** The FBO shall be qualified to perform reasonably comprehensive maintenance services on the airframes, power plants, and associated aircraft systems of general aviation piston aircraft up to 12,500 pounds gross weight.

D. **Aircraft Parts and Supply Sales.** The FBO shall have a general inventory of aircraft parts, supplies, and accessories for piston general aviation aircraft makes and models up to 12,500 pounds gross weight using the Airport.

E. **Avionics and/or Instrument Maintenance.** The FBO shall be qualified to perform reasonably comprehensive maintenance services on avionics and/or instrumentation commonly used in general aviation aircraft up to 12,500 gross weight.

4. **Basic Equipment Requirements.** The FBO shall at a minimum, have the following equipment available:

A. At least one metered, filter-equipped, full service vehicle having a minimum product capacity of 1,500 gallons capable of dispensing aviation fuel for piston aircraft.

B. Equipment necessary to perform maintenance service on aircraft and

power plants in accordance with FAA and FCC regulations and manufacturers' specifications for piston general aviation aircraft up to 12,500 pounds gross weight.

C. Equipment necessary to perform maintenance services on avionics and/or flight instruments, in accordance with applicable FAA regulations and manufacturers' specifications.

D. A minimum of one aircraft tug of sufficient capacity for the towing of general aviation aircraft up to 12,500 pounds of gross weight.

E. Adequate quantities of chocks, ropes, and other essential tie down equipment.

F. At least one vehicle to provide on-Airport transportation of passengers, crews, and baggage.

G. At least one portable compressed air unit for inflating tires.

H. Such other specialized equipment as reasonably necessary to meet the requirements of customers utilizing the FBO's facilities.

5. **Basic Insurance Requirements.** The FBO shall be required to provide the types of insurance in the limits specified by the County in this Contract.

EXHIBIT C FUEL AGREEMENT

While the Contractor operates the fuel facilities under the terms of this Contract, it is expressly understood by Contractor that the County maintains ownership of the fuel facility and shall have the right in its sole discretion to control location and fuel requirements of the fuel facility.

The Contractor in its operation of the fuel facilities must conform to Environmental Protection Agency standards for such facilities and shall establish and maintain adequate fuel spill prevention and containment capabilities, together with an approved fuel spill containment and counter-measure control plan. **Contractor shall be solely responsible at its sole expense for any costs, including penalties assessed by state or federal agencies, related to fuel spills and the cleanup thereof caused by negligence of the Contractor or its employees or agents.**

The County retains responsibility for the proper functioning of its owned fuel facility and shall pay for any fuel spills and cleanup resulting from faulty equipment. Contractor is responsible for notifying the County immediately of any spill or malfunction of the fuel equipment. In the event of any malfunction the Contractor shall work to mitigate damages or spills otherwise Contractor shall be responsible for the cleanup even if the spill is caused by the malfunction of the County's equipment.

Contractor shall make bulk fuel purchases at its sole expense and charge a reasonable, fair and non-predatory price for all fuel sold. Contractor must remit, on a monthly basis, to County a fuel flowage fee at a rate of two (2) cents per gallon in accordance with the provisions of Section 4.2 FEES. Contractor may then keep the difference between the fuel sale price and the purchase cost plus the fuel flowage fee as its profit. It is understood and agreed that the fuel flowage fee payments specified in Section 4.2 may be adjusted at the County's sole discretion and that each such adjustment shall result in a change in the monthly Fee Payments due as specified in Section 4.3. Increases in the fuel flowage fee shall be the greater of (i) the Consumer Price Index for All Urban Consumers (CPI-U) for Transportation Expenditures seasonally adjusted compound annual rate for the three months ending in June of the current year or (ii) the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-

Baltimore, DC-MD-VA-WV local area percent change in June of the current year from the last year compounded to an annual rate, or (iii) the Chained Consumer Price Index for All Urban Consumers (C-CPI-U) for Private Transportation Expenditures initial values for the most recent period compounded to an annual rate, all as released by the Department of Labor Bureau of Labor Statistics and shall be fair, not capricious and non-predatory .

Each gallon that flows into the Airport fuel facility shall be properly accounted for by the Contractor at both the time of purchase, by providing the date, volume purchased, the tank meter reading and purchase price, and at the time of delivery or distribution, by providing the date, volume sold or distributed, the entity the fuel was distributed to, the tank meter reading and the sale price.

All fuel related transactions must be documented by Contractor, with specific accounting for fuel flowage, and must be provided to County as provided in Sections 4.2, 4.3 and 4.5. County specifically reserves the right to audit all transactions related to fuel sales, purchases or distributions by Contractor, under which Section 4.6 of this Contract applies.

EXHIBIT D PERCENTAGE REDUCTION IN RENT

A one time special adjustment of Rent Payments will be granted to the Contractor in an amount of one-half the monthly charge for rent due during the Airport runway extension that may impact the Contractor's ability to conduct business. This one time adjustment shall last for no longer than six months or as long as the runway construction is in progress and shall only apply during the planned period of construction for the runway extension. County shall provide at least two months written notice to Contractor prior to commencing said construction indicating the start date of construction and the planned duration.